

HOW TO PREPARE A BYSTANDER'S REPORT OR AGREED STATEMENT OF FACTS

What is a *Bystander's Report* or *Agreed Statement of Facts*?

- A *Bystander's Report* and *Agreed Statement of Facts* describe everything that happened during court hearings or a trial. They include what the judge, the parties, the witnesses, and the lawyers said or testified to in court. They may also include a description of what happened in court in addition to what was said.
- You must use a *Bystander's Report* or *Agreed Statement of Facts* when there was no audio or video recording made of what happened in court, and when no court reporter was in court to take down what was said or done there.
- You can make a *Bystander's Report* or *Agreed Statement of Facts* part of the *Record on Appeal* so the appellate court will treat it as a correct statement of what was said or done in the trial court.

What is the difference between a *Bystander's Report* and *Agreed Statement of Facts*?

- The trial court judge must approve and certify a *Bystander's Report* before it can be made part of the *Record on Appeal*. However, you may file an *Agreed Statement of Facts* without the trial court judge's approval or certification.

Who can use the forms for preparing the *Bystander's Report* or an *Agreed Statement of Facts*?

- The appellant must make sure the *Record on Appeal* is complete. A complete *Record on Appeal* must include a record of what was said or done in court during hearings or a trial.
- If no audio or video recording was made, and there was no court reporter present to take down what happened in court, a *Bystander's Report* or an *Agreed Statement of Facts* must be used to make the *Record on Appeal* complete.

What forms do I need to fill out to file a *Bystander's Report* or an *Agreed Statement of Facts*?

- ***Bystander's Report*:** This form tells the trial court judge and the other parties what you believe was said or done in court. It should be a detailed description of what the judge, the parties, the witnesses, and the lawyers said or did in court during hearings or a trial.
- ***Agreed Statement of Facts*:** Like the *Bystander's Report*, an *Agreed Statement of Facts* describes everything that was said or done in court during hearings or a trial. Unlike the *Bystander's Report*, the parties must agree on everything that is in the *Agreed Statement of Facts*, and both parties must sign it.

Where can I find the forms I need?

You can find the forms at:

<http://www.illinoiscourts.gov/Forms/approved/>

What costs will I need to pay when I file the *Bystander's Report* or *Agreed Statement of Facts* forms?

- You do not need to pay to file either the *Bystander's Report* or the *Agreed Statement of Facts*.

When do I need to use the *Agreed Statement of Facts*?

- The *Agreed Statement of Facts* should be used when you and the other parties agree on what was said and done in court. You should contact the other parties and set up a meeting to agree on what the *Agreed Statement of Facts* should say.

When do I need to use the *Bystander's Report*?

- You need to use a *Bystander's Report* when you and the other parties cannot agree on what was said and done in court.

How do I fill out the *Bystander's Report* or *Agreed Statement of Facts*?

The *Bystander's Report* or *Agreed Statement of Facts* must describe in detail what everyone said or did in court during the hearings or trial. This includes what the judge, the parties, the witnesses, and the lawyers said or did in court. You should write the *Bystander's Report* or *Agreed Statement of Facts* like a story or a script that says which person was speaking and what they said or did.

Case Name

- Fill in this section the same way you filled it out on the *Notice of Appeal*.

Section 1

- In this section, you must list all of the dates and times of all the hearings and the trial (if it applies) in your case.
- You must also list the names of the judges at each hearing or trial.

Section 2

- The *Bystander's Report* or *Agreed Statement of Facts* tells the appellate court everything the trial court judge, parties, lawyers, and witnesses said and did in court.

- It is very important for you to make the *Bystander's Report* or *Agreed Statement of Facts* as accurate and detailed as you can.
- You must also list all of the dates and times of the hearings or trial where testimony was given, evidence was introduced, or other things happened that will help the appellate court understand the facts of the case and why you think a mistake was made.
- It is usually best for you to tell a story by writing down what each person said or did in the order that it happened. You should write your description so that a person who was not there can understand what happened.

Signatures

- The person who made the *Bystander's Report* must sign it. There is also a place for the trial court judge to sign it to show that it is approved.
- If you are using an *Agreed Statement of Facts*, then all of the parties or their attorneys must sign it. The trial court judge does not need to sign an *Agreed Statement of Facts*.

When do I have to file the *Bystander's Report* or *Agreed Statement of Facts*?

- A *Bystander's Report* or *Agreed Statement of Facts* must be filed with the trial court clerk within 49 days after the date you filed the *Notice of Appeal*.
- The 49-day period to file the *Bystander's Report* or *Agreed Statement of Facts* starts on the day after you filed the *Notice of Appeal*. You must count weekends and holidays. However, if the 49th day is on a weekend or court holiday, you may file the *Bystander's Report* or *Agreed Statement of Facts* on the next business day.

How do I file the *Bystander's Report* or *Agreed Statement of Facts*?

- If you are using a *Bystander's Report*, there are 3 things that must happen before you can file it with the trial court clerk:
 - First, you must serve the *Bystander's Report* on all of the other parties within 28 days after you filed the *Notice of Appeal*. If any party has a lawyer, you must send your *Bystander's Report* to the lawyer. The 28-day period starts on the day after you filed the *Notice of Appeal*. You must count weekends and holidays. However, if the 28th day is on a weekend or court holiday, you may serve the *Bystander's Report* on the next business day.
 - You may send your *Bystander's Report* to the other parties by personal hand delivery, by mail, by third-party commercial carrier (for example, FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider. You may send your *Bystander's Report* to a party by e-mail if they have listed their e-mail address on a court document. Complete the *Proof*

of Service with information to show how you are sending your *Bystander's Report* to each party. The *Proof of Service* has room for 3 parties. If you are sending your *Bystander's Report* to more than 3 parties, fill out and insert one or more *Additional Proof of Service* forms into the main form.

- Second, within 14 days after you serve the *Bystander's Report*, any other party may serve you with suggested changes to your *Bystander's Report*, or with their own *Bystander's Report*.
- Third, within 21 days after you serve your *Bystander's Report*, you must have a hearing in front of the trial court judge. To ask for a hearing to get the *Bystander's Report* certified and approved, you must fill out a circuit court *Motion* and *Notice of Motion* and file it with the trial court. This is a separate set of forms that you can find at: illinoiscourts.gov/Forms/approved/Circuit.asp. Use the *Motion* to ask the court to approve your *Bystander's Report*.
- Fourth, at the hearing, the trial court judge will decide whether to approve and certify the *Bystander's Report* so that you can file it with the trial court clerk to be included in the *Record on Appeal*.
 - After the trial court has heard and decided the *Motion*, you must file the *Bystander's Report* and the order approving it with the trial court clerk where your trial court case was heard.
 - If you are an inmate in a prison or jail and don't have a lawyer, you may file your *Bystander's Report* or *Agreed Statement of Facts* by mail. Otherwise, you must electronically file (e-file) your *Bystander's Report* or *Agreed Statement of Facts* with the clerk of the trial court.
 - You may be excused from e-filing if (1) you do not have Internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer, (2) you have a disability that keeps you from e-filing, or (3) you have trouble reading or speaking in English. To file your *Bystander's Report* or *Agreed Statement of Facts* on paper, fill out a *Certification for Exemption From E-Filing*, which you can find here: <http://www.illinoiscourts.gov/Forms/approved/default.asp>. Contact the appellate court clerk's office and ask how many copies of your *Bystander's Report* or *Agreed Statement of Facts* you must provide. Then deliver your original *Bystander's Report* or *Agreed Statement of Facts*, the required number of copies, and the *Certification* to the clerk's office in person, by mail, or by third-party commercial carrier (e.g., FedEx or UPS).
 - To e-file, create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to select a service provider. Some are free, while others charge a processing fee.

For instructions on how to e-file for free with Odyssey eFileIL, see *Odyssey File & Serve: Individual Filer User Guide* here:
<https://tylertech.egain.cloud/kb/ilh5/content/PROD-16579/HTML-5-Individual-Filer-User-Guide-20170>.

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